

REMARKS

Claims 1-22 are pending in the present application. In the Office Action, claims 1-5 and 14 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Xu, et al (U.S. Patent Publication No. 2003/0172165) in view of Sarkkinen (U.S. Patent No. 6,684,081). Claims 6-13 and 15-22 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Xu, in view of Sarkkinen and further in view of Trossen, et al (U.S. Patent Publication No. 2003/0157899). The Examiner's rejections are respectfully traversed.

To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

Claim 1 sets forth receiving a multicast control message and selecting a multicast service in response to the received multicast control message. The Examiner alleges that Xu describes selecting a multicast service in response to receiving a multicast control message. However, on page 2 of the Office Action, the Examiner admits that Xu fails teach or suggest receiving a multicast control message. Consequently, Applicant respectfully submits that Xu must, by the Examiner's own admission, also fail to teach or suggest selecting a multicast service in response to receiving a multicast control message, as set forth in independent claim 1.

Sarkkinen describes transmitting control information associated with a multicast. However, Sarkkinen is completely silent with regard to selecting a multicast service in response to receiving a multicast control message, as set forth in independent claim 1. Trossen describes multicast services that are provided at different data rates. However, Trossen is also completely silent with regard to selecting a multicast service in response to receiving a multicast control message, as set forth in independent claim 1.

For at least the aforementioned reasons, Applicant respectfully submits that the Examiner has failed to make a *prima facie* case that independent claim 1, and all claims depending therefrom, are obvious over Xu, Sarkkinen, and Trossen, either alone or in combination. Applicant requests that the Examiner's rejections of claims 1-13 under 35 U.S.C. 103(a) be withdrawn.

Claim 14 sets forth receiving subscription information and transmitting a multicast control message in response to the received subscription information. Subscription information is defined in the specification as data associated with a subscriber. The subscription information may include a multicast service plan such as a subscription type, payment authentication data, and/or billing information. See Patent Application, page 6, line 30 – page 7, line 4. The Examiner alleges that Xu describes receiving subscription information. Applicant respectfully disagrees. As admitted by the Examiner, Xu describes providing information including a starting time and the costs associated with the multicast session. However, Xu is completely silent with regard to receiving subscription information, *i.e.* data associated with a subscriber. Accordingly, Applicant respectfully submits that Xu fails to teach or suggest receiving subscription information and transmitting a multicast control message in response to the received subscription information, as set forth in independent claim 14.

As discussed above, Sarkkinen describes transmitting control information associated with a multicast and Trossen describes multicast services that are provided that different data rates. However, neither of the secondary references remedies the fundamental deficiency of Xu. In particular, the secondary references are completely silent with regard to receiving subscription information and transmitting a multicast control message in response to the received subscription information, as set forth in independent claim 14.

For at least the aforementioned reasons, Applicant respectfully submits that the Examiner has failed to make a *prima facie* case that independent claim 14, and all claims depending therefrom, are obvious over Xu, Sarkkinen, and Trossen, either alone or in combination. Applicant requests that the Examiner's rejections of claims 14-22 under 35 U.S.C. 103(a) be withdrawn.

For the aforementioned reasons, it is respectfully submitted that all claims pending in the present application are in condition for allowance. The Examiner is invited to contact the undersigned at (713) 934-4052 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

Date: 10/12/05


Mark W. Sincell, Ph.D.

Reg. No. 52,226

Williams Morgan & Amerson, P.C.

10333 Richmond Avenue, Suite 1100

Houston, TX 77042

(713) 934-7000

(713) 934-7011 (Fax)

AGENT FOR APPLICANTS